

## REMARKS

Favorable reconsideration and withdrawal of the rejections set forth in the final Office Action dated July 25, 2008, are respectfully requested in view of the foregoing amendments and the following remarks.

Claims 11-13 are pending with Claim 11 being the sole independent claim. Claim 11 has been amended. Support for the claim changes can be found in the original disclosure, and therefore no new matter has been added.

In the July 25, 2008 final Office Action, Claims 11 and 13 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication No. 2002/0008766 (Tariki). Claim 12 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Tariki in view of U.S. Patent No. 6,101,287 (Corum).

In response, while not conceding the propriety of the rejections, independent Claim 11 has been amended. Applicant submits that as amended, Claim 11 is allowable for the following reasons.

Independent Claim 11 relates to an imaging apparatus comprising a photoelectric conversion area including a plurality of photoelectric converters, a controller, and an image processor. The controller is configured to control a first mode for continuously reading out, from the photoelectric conversion area, a plurality of image data acquired by a plurality of image-taking operations performed at a plurality of charge accumulation times, respectively, and a second mode for continuously reading out, from the photoelectric conversion area, a plurality of correction data, acquired at different times than the plurality of charge accumulation times, having the same duration as the plurality of charge accumulation times, respectively, in a state where the photoelectric conversion area is

shielded by a shutter. The image processor is for correcting the plurality of image data by using the plurality of correction data.

Claim 11 has been amended to recite that the controller is configured to control a first mode for continuously reading out, from the photoelectric conversion area, a plurality of image data acquired by a plurality of image-taking operations performed at a plurality of charge accumulation times, respectively, and a second mode for continuously reading out, from the photoelectric conversion area, a plurality of correction data, acquired at different times than the plurality of charge accumulation times later in time than the plurality of charge accumulation times during which the plurality of image data are acquired in the first mode, having the same duration as the plurality of charge accumulation times, respectively, in a state where the photoelectric conversion area is shielded by a shutter.

Claim 11 has been further amended to recite that the imaging apparatus operates in the second mode after the first mode.

In contrast, the citation to Tariki is not understood to disclose or suggest an imaging apparatus that operates in a second mode after a first mode, a) where the first mode is for continuously reading out, from the photoelectric conversion area, a plurality of image data acquired by a plurality of image-taking operations performed at a plurality of charge accumulation times, respectively, and b) the second mode is for continuously reading out, from the photoelectric conversion area, a plurality of correction data, acquired at different times than the plurality of charge accumulation times later in time than the plurality of charge accumulation times during which the plurality of image data are acquired in the first mode, having the same duration as the plurality of charge accumulation times, respectively, in a state where the photoelectric conversion area is shielded by a shutter, as recited by

amended Claim 11. In addition, this citation is not understood to disclose or suggest a controller configured to control such a first mode and a second mode, as recited by amended Claim 11.

Rather, the Tariki patent is understood to operated as follows. To take a picture, a release button is pressed. When the release button is pressed half way, a switch SW1 is closed, and as a result, the operation unit 20 instructs the camera to read an image signal with the shutter 3 closed. When the release button is pressed deeper, the switch SW2 is closed, the shutter 3 is opened, and an image signal is read to record an image signal of an image of an object (paragraphs [0065], [0067], and [0068] - [0077]). Thus, the Tariki patent is understood to teach that data generated with the shutter closed always occurs before taking a picture of an image. In contrast, amended Claim 11, recites that correction data is acquired after image data is generated.

Since the Tariki citation is not understood to disclose or suggest each of the features of amended Claim 11, Applicant submits that the Office has not yet satisfied its burden of proof to establish anticipation of Claim 11 over this patent. Therefore, Applicant respectfully requests that the rejection be withdrawn.

The dependent claims are allowable for the reasons given for independent Claim 11 and because they recite features that are patentable in their own right. Individual consideration of the dependent claims is respectfully solicited.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration, withdrawal of the outstanding rejections, and passage to issue of the present application.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

/Gary M. Jacobs/

---

Gary M. Jacobs  
Attorney for Applicant  
Registration No. 28,861

FITZPATRICK, CELLA, HARPER & SCINTO  
30 Rockefeller Plaza  
New York, New York 10112-3801  
Facsimile: (212) 218-2200  
GMJ/klm

FGHS\_WS 2592094v1